

REMARKS

As noted previously, the Applicant appreciates the Examiner's thorough examination of the subject application.

Claims 1-4 and 6-34 are pending in the application and were rejected in the final Office Action mailed 22 December 2008 on statutory grounds, described in further detail below. Claims 1, 8, 11, 14, 15, 25, 30, and 33 are amended herein. No new matter has been added.

Applicant requests reconsideration and further examination of the subject application in light of the foregoing amendments and the following remarks.

Objections

In the Office Action, the Examiner objected to claim 8 for an informality, specifically requiring that "I" be deleted from claim 8. Claim 8 is amended herein in accordance with the Examiner's requirement. Thus, the objection has been rendered moot.

Claim Rejections – 35 U.S.C. § 112

In the Office Action, claims 1-4 and 6-34 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. More specifically, the Examiner stated that the specification failed to adequately enable "counting the test pad reflectance values."

In response, Applicant notes that the specification as filed teaches counting the test pad reflectance values, e.g., at paragraphs [0021], [0036], and [0044]. As described in the specification of the subject application, the actual number of test pads present can be counted for embodiments of Applicant's disclosed invention. For example, as described in paragraph [0021], the "pad typing module may be further configured to determine a test pad count as a function of the pixel-based image." A representative number, or count, of test pads is shown in FIG. 2 of the application, reproduced below. As shown, reference character 292 indicates the number or count of the test pads.

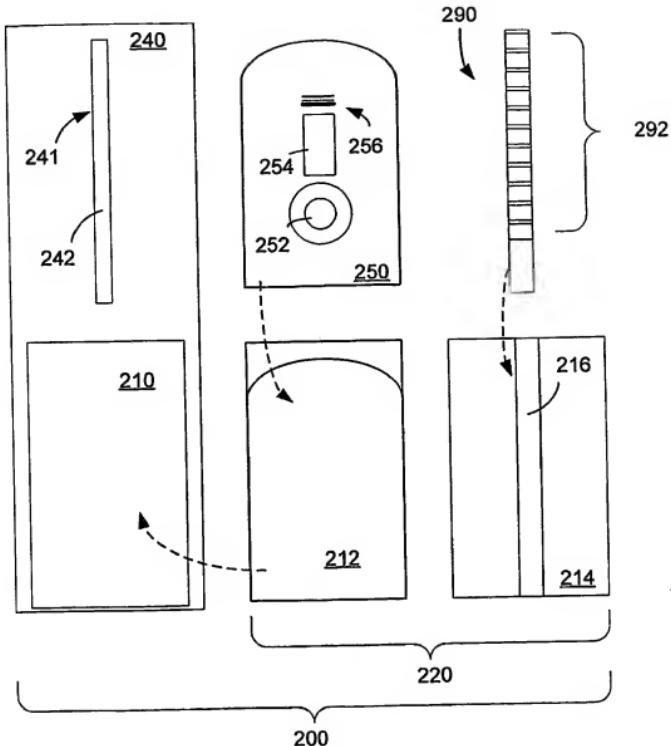


FIG. 2

To further clarify the claimed invention, independent claims 1, 11, 14, 15, 25, 30, and 33 are amended herein to substitute “a number of test pads” for “said test pad reflectance values” in the

context of counting test pads. These amendments are supported by the specification as filed, e.g., in paragraph [0021] and FIG. 2. No new matter has been added.

Thus, the foregoing comments and amendments are believed to overcome the rejections of claims 1-4 and 6-34 were rejected under 35 U.S.C. § 112, first paragraph. Applicant requests that the rejection be removed accordingly.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's statement in the Office Action that claims 1-4 and 6-34 are (i) allowable over the prior art of record, and (ii) would be allowable if rewritten to overcome the previously noted rejections under 35 U.S.C. § 112. As noted previously, the present amendment to the claims is believed to rectify the above-noted statutory rejections, and thus place the claims in condition for allowance.

Conclusion

In view of the amendments and remarks submitted herein, Applicants respectfully submit that all of the pending claims in the subject application are in condition for allowance, and respectfully request a Notice of Allowance for the application. If a telephone conference will expedite prosecution of the application, the Examiner is invited to telephone the undersigned. Authorization is hereby given to charge our deposit account, No. 50-1133, for any fees required for the prosecution of the subject application.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 06 January 2009

/G. Matthew McCloskey/
G. Matthew McCloskey, Reg. No. 47,025
Attorney for Applicant
28 State Street
Boston, MA 02109-1775
Telephone: (617) 535-4082
Facsimile: (617)535-3800